Watch Out for Waxman

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Rep. Henry A. Waxman may not stand tall, but this subcommittee chairman knows what he wants and how to get it -- and he has the patience to advance his liberal agenda a step at a time.

Back in one of the cramped offices where Rep. Henry A. Waxman, D-Calif, chairman of the Energy and Commerce Subcommittee on Health and the Environment, squirrels away his 12 workaholic aides, one of them drinks tea from a mug emblazoned with the slogan "Budgets are for wimps."

That's a line that borders on heresy in official Washington these days. But Waxman, with the help of his staff widely praised for its collective smarts has been among the first and best at figuring out how to make the budget system work for him. He has taken a system designed to enforce discipline and austerity on congressional spending and used it to expand health care for the poor, the elderly and the very young. He has also been instrumental in improving the quality of nursing home care, bringing down prices for prescription drugs, helping make available otherwise unprofitable "orphan" drugs for rare diseases and shaming the Reagan Administration into putting more money into AIDS research.

Waxman did so during a time when federal money was tight and while he was up against an Administration that opposed most of his goals and wasn't shy about saying so.

"The guy is a legislator's legislator," said former Rep. Buddy MacKay, D-Fla., now of counsel to the Miami law firm of Steele, Hector & Davis. "It's unusual to have a guy who understands the system as well and is also a very compassionate person."

Moreover, Waxman -- who stands five-feet-five and speaks in a quiet, unpretentious way -- has managed to thrive even in the shadow of Big John the six-foot-three John D. Dingell, D-Mich., imperious chairman of the Energy and Commerce Committee, with whom he often clashes on environmental policy issues.

Waxman's relentlessness occasionally riles even those who share his views. "When I first came on the Budget Committee, I thought Henry's first name was sonuvabitch,' " said George Miller, D-Calif., a Waxman ally who was until recently on the Budget Committee and is chairman of the Select Committee on Children, Youth and Families. "Everybody who had to deal with it kept saying, 'Do you know what that sonuvabitch Waxman wants now?' "

Much of Waxman's success has come from combining long-range vision with persistence and a willingness to progress one small step at a time.

And some of his success owes to the nature of the causes he takes on. "You have to recognize that everyone knows he's right, they just don't want to confront the issue and Henry will not let them off cheap," Miller said. "Any increase in spending is controversial, but they don't like to see kids dying at birth."

Waxman's choice of causes, in turn, derives from his personal -- and, some friends say, his religious -- convictions. The grandchild of Russian Jews who fled the pogroms, Waxman continues to observe his family's faith. Besides being active at his temple, he participates in a special study group, keeps kosher and won't work Saturdays. "I think from a Jewish religious point of view, people have responsibility for others to try to bring about social justice and take care of people who can't take care of themselves," Waxman said. But, he added, "a lot of people can believe that and think that it's not government's role."

If Waxman is driven by idealism, he is also well-served by pragmatism. He has forged partnerships with his subcommittee's ranking minority member, Edward R. Madigan, R-Ill., and conservatives such as Sen. Orrin G. Hatch, R-Utah, and Rep. Henry J. Hyde, R-Ill., with whom he has clashed on abortion issues.

And although Waxman is low-key, affable and modest, these traits, like his diminutive size, can mislead the casual observer: This is an ambitious man of steely determination, skilled in the acquisition and use of political power. "It is not a fruit-and-nuts-California mellowness," an aide said.

More concerned with the purity of his ends than the means by which he attains them, Waxman has occasionally been at odds with traditional "good-government" advocates. Blessed with a safe district (Waxman has trouble remembering his opponents' names), he has used his ability to raise money like a latter-day Robin Hood. He takes from special-interest groups -- usually those that have interests before his subcommittee -- and gives to liberal congressional candidates, orga- nizations and charities. In so doing, he advances the causes he believes in and, not so incidentally, his public image and his influence within the House.

In the past six years, Waxman's campaign and his political action committee spent $558,000 on Democratic congressional candidates' and Members' races with about a fourth of that money going to members of the Energy and Commerce Committee, and about two-thirds of it to his own subcommittee members. From 1985-87, he gave away about 57 per cent of his $163,625 in honoraria. And as a member of the Democratic Steering and Policy Committee, he has helped put allies in key places -- Howard L. Berman, D-Calif., on the Budget Committee, for example. In the past two years, he has also contributed $28,000 to candidates for the California State Assembly, which will decide how to redraw congressional districts in the state after 1990. Compared with Waxman's past eight years, the next four may look like a cakewalk. President Bush uses Waxman's own rhetoric and tactics on expanding the Medicaid program and, like Waxman, backs new controls on acid rain.

That doesn't mean Waxman will slack off: Chances are he'll hold Bush to his promises and up the ante. "We're going to keep on reminding him and everyone else that there are... 37 million people without health insurance coverage," Waxman said.

He may have a couple of worries: The committee's Democratic lineup has been made over to conform more closely to Dingell's environmental views, and that could also portend a tougher time on some controversial health issues. Back home, Waxman will have to watch out for his district when California gets involved in redistricting.

But right now, these aren't seen as serious threats, and Waxman, who is 49, can expect to continue to rack up successes on legislation, build influence and bide his time. He concedes to having an interest in chairing the full committee or one day being House Speaker -- but, he notes, those positions are not likely to be open to him for quite a while.

Not to worry -- Waxman is a patient man.

Even as his party has been choking on the word, Waxman unabashedly calls himself a liberal. "I believe that government has a responsibility to help those people who are otherwise going to be unprotected," he said. "Without health care, housing, education and the basic necessities of life, I think we're denying people an [equal] opportunity."

GOVERNMENT'S ROLE

The roots of his politics, he says, reach back to his childhood, when he and his sister and parents lived above his father's grocery store in Watts, a down-at-the-heels Los Angeles neighborhood. "I don't think we thought of ourselves as poor, but we weren't rich," he said. He remembers his father talking about the

Depression and "how important it was to have the New Deal, to give hope to people and a chance for participating in the affluence of our society."

Waxman was the first of his extended family to go to college. A political science major at the University of California (Los Angeles), he established some lasting political relationships through the Young Democrats. "There were a whole circle of members of Young Democrats that are now in public office," he said, including Speaker Willy Brown of the state Assembly; state Senate president pro tempore David Roberti; and Berman, who succeeded Waxman as president of the Young Democrats and followed him to the Legislature and, in 1982, to Congress. From there, law school (at UCLA) and a brief stint in law were way stations on his career track in politics. At 29, he successfully challenged a Democratic incumbent in the Assembly. Running his campaign was Berman's kid brother, Michael, then not yet 21, now one of California's premier political consultants.

Waxman's decision to focus on health issues in the Assembly showed a characteristic melding of idealist and pragmatist. "I made a decision that I should specialize to some extent in a policy area if I were to have the opportunity to make an impact," he said, and he picked health care because "I thought that there was a clear role for government to play that was unambiguous to most people."

When a court-ordered reapportionment created a House district for the 1974 election in West Los Angeles, where Waxman had lived since college, he had his ticket to Washington. Well-matched to his views on most issues, the district, with its big concentration of elderly, a large Jewish population, many immigrants and some gays, has virtually handed him a free return trip ticket to Congress ever since.

One of the class of obstreperous, liberal "Watergate Babies," Waxman helped challenge the conventional wisdom and the established order. Energy issues were grabbing headlines, but Waxman sought a place on the Energy and Commerce (then called Interstate and Foreign Commerce) Committee because its jurisdiction included health. He and the other Watergate Babies on the committee also created "a whole new dynamic" on environmental issues, said a Washington attorney who lobbies for industry: "They started to ask how to make environmental protection tougher. All of a sudden, there was pressure from the Left."

After only four years in the House, Waxman mounted a successful challenge to preempt the top spot on the Health and the Environment Subcommittee from the more-senior Richardson Preyer, D-N.C. He got some flak at the time for having handed out campaign contributions to various committee Democrats, but he says there were more-important considerations in that fight: Preyer's defense of the tobacco industry and his family's ties to a major pharmaceutical company, Waxman maintained, would have made Preyer a less-effective health advocate.

In any event, the precocious move made other House Members pay attention to him. But Waxman was just warming up.

FENDING OFF REAGAN

It wasn't long after Waxman got his prized chairmanship that the prospects for providing health care to more low-income Americans went from bad to worse. In the waning months of the Carter Administration, a major health care initiative for low-income children, the Child Health Assistance Program (CHAP), went down to defeat, the victim of a high price tag and anti-abortion amendments.

But even that didn't prepare congressional liberals for what was to follow. Waxman's old California nemesis, Ronald Reagan, lit into the Medicaid program as part of his 1981 assault on big government. The new President proposed to cap the matching funds the federal government would give states for joint administration of the program at $100 million less than it was paying. That would have put an ever-larger burden on states, because Medicaid rolls often swell during economic hard times and medical cost increases far outpace inflation.

Mindful of Reagan's support in the Republican-controlled Senate and among conservative House Democrats, Waxman pushed a compromise to cut federal spending on Medicaid over the following three years but preserve the matching fund structure. The Administration and Senate Republicans fought hard and insisted that conference negotiations be held in the office of then-Senate Majority Leader Howard H. Baker Jr., R-Tenn. But Waxman's idea prevailed, although with larger cuts than he had proposed.

The Administration's first, partial victory on Medicaid was also its last of any substance. In the backlash that followed Reagan's cuts in programs for low-income people, Waxman saw an opportunity that he would exploit fully. Bit by bit over the next several years, he got the President to sign, reluctantly, health legislation that by the end of Reagan's second term, went at least as far as President Carter's ill-fated CHAP proposal in broadening disability. "There were jokes about CHAP-it sounded like a Ralph Lauren perfume," said Jacob Lew, a former adviser to former Speaker Thomas P. O'Neill Jr., D-Mass., and now a partner with the Washington law firm of Van Ness, Feldman, Sutcliffe & Curtis. "But little by little, [Waxman] got it accepted." Although the Medicaid cuts made it tougher for some low-income people to get adequate health care, many of the problems Waxman set out to address predated Reagan. The biggest problem was that Medicaid was generally available only to single mothers and children who qualified for welfare -- a small subset of the poor and the uninsured. And, because welfare programs encountered degrees of unpopularity among the states, eligibility standards and benefit levels varied widely.

Starting in 1984, under Waxman's leadership, Congress each year expanded Medicaid coverage in small increments for select groups of pregnant women and infants-and, over time, for older children. Sometimes the goal was to change the requirements of the welfare system: Coverage was extended to pregnant women who wouldn't otherwise be eligible until their first child was born and children up to age 5 in certain two-parent families. Other times, states were offered the option to expand health care coverage to pregnant women and infants in families that earned too much to qualify for welfare. Each year was marked by an increase in the family income eligibility level or the age of children who could qualify. Often, what began as a state's option later became a federal requirement.

And when the 1985 Balanced Budget Act threatened mandatory cuts in Medicaid if Congress failed to meet over-all spending limits, Waxman fought behind the scenes to get the program exempted. "It was one of the last decisions made, and it took persistence, some brinksmanship and tough bargaining," said MacKay, who then sat on the Budget Committee.

Such was Waxman's success in the mid-1980s that then-Senate Majority Leader Robert Dole, R- Kan., was heard warning colleagues not to amend a bill on the floor because it would mean facing Waxman in conference. "You didn't hear that about anybody else in the House, so it made you sit up and take notice," said John C. Rother, then staff director of the Senate Special Committee on Aging and now legislative director of the American Association of Retired Persons. The White House was apoplectic. "Every year [Reagan's] veto threat included the Medicaid amendments" as a reason for a possible veto, Lew said. And Deborah L. Steelman, former associate director of the Office of Management and Budget (OMB) and a domestic policy adviser to the Bush campaign, said, "My reading of [OMB directors Dave] Stockman and [James C.] Miller [Ill.] was that they were clearly annoyed." Within the Administration, she said, Waxman "was seen as an old-fashioned, '60s-style liberal ... off on a horse to do more for poor people without a thought to the budgetary consequences for the feds or the states."

But by the time Reagan left office, Congress had passed and Reagan had signed into law requirements that states expand Medicaid coverage by mid-1990 to all pregnant women and infants with family incomes at or below the poverty line, while allowing states the option to cover all poor children up to age 8.

Perhaps more important, these expansions broke the link with welfare that had stigmatized Medicaid, and they began replacing the varied state eligibility standards with national ones based on the federal poverty line.

How did Waxman do it?

For one thing, he and his staff realized early on that the same process Reagan was using to cut the budget, reconciliation, could be used to help Waxman's own agenda. Designed to force all authorizing committees to meet spending limits, the process created a mammoth catchall bill in which controversial measures stood a better chance than they would as freestanding bills. Reconciliation bills also came with special rules that limited controversial amendments. And Waxman's small, often optional expansions in Medicaid made any one change hard to oppose. "One thing I learned is that if you have five-year vision and accept one-year victories, you'll get there eventually," Steelman said. "The state option aspects also made it harder for Reagan hard-liners to oppose -- all he was doing was [as Reagan had said], 'Let's just let the states decide.' "

Then there was Waxman's talent for enlisting broad support, even among conservatives. "Given the nature of the issues, he has been able to forge bipartisan agreements a remarkable number of times," said Thomas J. Tauke, R-Iowa, a member of Waxman's subcommittee.

That's not to say that Waxman is loved by all the subcommittee's Republicans. William E. Dannemeyer, R-Calif., is probably Waxman's most consistent antagonist. "He's respectful of the range of opinions, but that's not to suggest he's swayed from his agenda," Tauke said. "He only negotiates when he needs help. We've probably all felt victimized at one time or another."

WORKING THE HILL

While pushing legislation, Waxman also has had to line up at the Budget Committee's door, hat in hand. Getting that committee's OK was no small feat, because in light of the deficit, most new expenditures have to be financed with budget cuts or new revenues.

Waxman was always back asking for more, often putting his colleagues on the spot. "You feel like Solomon out there, trying to divide the children up," said Jim Slattery, D-Kan., a fiscal conservative who is a member of the Energy and Commerce and Budget Committees. "There were times, perhaps, when Henry was trying to get more than I felt like was possible in the confines of the budget dilemma." On the other hand, he said, "Henry's jurisdiction includes some of the most sensitive programs that Democrats care most deeply about. If Democrats stand for anything, they have to stand for protecting health care in this country." More often than not, Waxman got much of what he wanted.

But that wasn't the end of it. Often, decisions on Medicaid were the last issues to be decided in conferences with the Senate-which, under Republican control, opposed any expansions, and under Democratic control, typically had less-generous provisions than the House had. "You'd get down to the last negotiations with the conferees, and the last question to be asked would be, 'Has Henry signed off?' " Rep. Miller said. "Those were the four most troublesome words to the leadership."

Waxman lost a 1987 bid to expand Medicaid in tough negotiations with Senate Finance Committee chairman Lloyd Bentsen, D-Texas, that again were held in the office of the Senate Majority Leader (then Robert C. Byrd, D-W.Va.). And he lost a bid to have expansions included in the fiscal 1988 budget resolution.

Before 1988 was out, however, Waxman got his expansions attached to two other high-priority bills: welfare reform and catastrophic illness insurance. One measure allowed temporary Medicaid benefits to poor people who worked their way off welfare; another permitted spouses of Medicaid patients in nursing homes to keep more income and assets than was previously allowed. And, while Republicans railed against Waxman's push to include generous new prescription-drug benefits for medicare recipients in the catastrophic illness bill, few noticed another major Waxman provision that required states to pay all edicare premiums, deductibles and co-payments for all elderly people below the poverty line. "It's

probably the most major program expansion for low-income elderly since 1965," said Ron Pollack, executive director of Villers Advocacy Associates, an advocacy group for the elderly poor.

Waxman also proved adept at advancing a liberal agenda on other health issues. In 1982, by a narrow margin, he was able to stop a Senate-passed bill that would have allowed drug companies to extend patents on certain brand name drugs. That bill would have kept prices and profits high for those drugs. The companies argued that they needed the extension to recoup time and money spent on the elaborate Food and Drug Administration (FDA) approval process.

Waxman held out until he had a sweetener for consumers: After a brand name drug came off patent, its copycat "generic" competitors must get expedited approval from the FDA rather than having to repeat the approval process. The compromise bill, which was passed in 1984, helped usher in a new era of competition.

In 1986, Waxman overcame a series of obstacles to craft a no-fault system of compensation for families of children injured or killed by vaccines. First, he waded through the competing interests of doctors, pharmaceutical companies and a parents group. But then the House Ways and Means Committee, embroiled in tax reform, wouldn't consider the proposed surcharge on vaccines to finance the system. With time running out in the 99th Congress, Waxman settled for passing the program without any money to run it.

Faced with yet another veto threat by the Administration, Waxman deftly packaged the measure with several others dear to conservatives and the drug companies-for example, permitting overseas sales of drugs not yet approved by the FDA and repealing the federal health planning law.

That made an ally of Hatch, then chairman of the Labor and Human Resources Committee, who helped convince a reluctant White House that the President should sign the bill. "Hatch was so relentless, Waxman didn't have to do a thing," Steelman said.

The next year, Waxman got Congress to approve the surcharge, but only to help future victims, not past ones. He came back again in 1988 and secured money for past victims. "Each step created pressure for the next step," said Jeffrey H. Schwartz, former president of Dissatisfied Parents Together, the parents group involved in the effort.

BUZZING BUSH

Waxman doesn't always win. Health issues that touch on morality, principally abortion and AIDS, have caused trouble for him. A firm believer that abortion should be a woman's choice and should be publicly subsidized for those who can't pay, Waxman has watched the tide in the House run against his views. And Waxman, a staunch advocate for AIDS victims, in 1987 watched Dannemeyer win two floor votes on amendments that Waxman opposed: one to ban federal money from being used to "promote or encourage [homosexuality] directly or indirectly" and another to require that health professionals be notified of possible exposure to the virus. Waxman, in last year's AIDS bill, helped get new funds for AIDS testing and counseling, but he also lost bids to prohibit discrimination against AIDS carriers and victims and to keep AIDS test results confidential.

Waxman, nevertheless, has held off some anti-abortion amendments and has embarrassed the Administration into requesting more money for AIDS research. In 1985, he threatened to subpoena then health and Human Services Secretary Margaret M. Heckler if she didn't divulge the AIDS budget requested by the agency's public health officials. Shortly thereafter, Heckler wrote that the Administration had decided to increase its AIDS budget by 48 per cent. Environmental issues have also proven troublesome for Waxman. He managed to team up with Madigan and others to pass a Safe Drinking Water Act, but he and Dingell, a defender of the automobile industry, have fought to a draw for several years over the fate of the Clean Air Act. Although Dingell has the multiple advantages over Waxman of

height, volume and committee chairmanship, Waxman has been able to outflank him in key votes at the subcommittee and full committee levels.

But the net result, for which some Democrats hold both Dingell and Waxman accountable, has been no new air pollution control legislation. "It's easy to take positions not politically possible at times and win the favor of [interest groups]," Slattery said. "I just know that right now the environmental groups are not interested in compromise.... [but] you can't let perfection be the enemy of the good." Slattery is one of a group of nine committee Democrats trying to forge a compromise.

Waxman bristles at the suggestion that he's an obstructionist. "I don't think that's fair," he said. "I'm open to accommodations and compromises as long as we have a workable program that will lead to reduction of air pollution. I've been negotiating... and I'm open to continuing negotiations, but I'm not going to agree to something that doesn't accomplish anything." While obviously unhappy with each other and the situation, both Dingell and Waxman can say that their positions have paid off.

Dingell got de facto delays in any toughening of pollution controls. Waxman staved off an Administration that was interested in weakening the law, and now, with more scientific evidence of the dangers of acid rain and with mounting public concern about it, a new Administration has taken office pledging to control acid rain.

Indeed, with the accession of the Bush Administration, Waxman seems to be sitting in the catbird seat. Not only has Bush endorsed stronger environmental protection, he has also virtually adopted Waxman's approach to Medicaid expansion.

During the campaign last fall, Bush appeared to endorse converting to a requirement a state option for Medicaid under which coverage may be extended to pregnant women and infants in families with incomes of as much as 185 per cent of the poverty line.

"We picked up [Waxman's approach] in the Bush program because it was the right thing to do," Steelman said.

Waxman professes to be delighted at the change in philosophy at the White House. "He's sensitive to the problems," Waxman said of Bush. "President Reagan didn't even acknowledge that there were people who were poor and without basic services."

But that doesn't mean Waxman will drop his buzzing-gnat routine. It has not escaped his notice, for example, that Bush's budget calls for raising Medicaid coverage only to those with incomes of as much as 130 per cent of the poverty line and that the money for that expansion would be taken out of administrative matching grants to the states.

Waxman has already introduced legislation that contains what he believes to be Bush's campaign promises on these and other health matters. He also is gearing up to push again for mandatory employer-provided health insurance to cover the bulk of those lacking health insurance aid for a soon-to-be-announced bill to provide public coverage of the unemployed uninsured.

"Now, I know President Bush, with all the problems he's got.... the savings and loans, the defense contractors.... would rather not hear from somebody who's raising the question of health care services for poor people," Waxman said. "But I think it's important to keep raising some of these issues so they can't be ignored.